

LIFE IS GOOD, INC. V. LG ELECTRONICS U.S.A., INC
Civil Action No. 04 11290 WGY

DECLARATION OF TIMOTHY LEMPER IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE
TO EXCLUDE ARGUMENT AND EVIDENCE ON DEFENDANTS' INTENT

Exhibit 1

COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X
LIFE IS GOOD, INC., :
 :
Plaintiff, :
 :
v. : No. 04 11290 REK
 :
LG ELECTRONICS U.S.A., INC., :
 :
Defendant. :
-----X

Washington, D.C.

Wednesday, November 9, 2005

Deposition of

JOHN I. TAYLOR

a witness, called for examination by counsel for
Plaintiff, pursuant to notice and agreement of
counsel, beginning at approximately 9:36 a.m., at
the law offices of Nixon Peabody, 401 9th Street,
NW., Washington, D.C., before Lauri M. Ploch of
Beta Court Reporting, notary public in and for the
District of Columbia, when were present on behalf
of the respective parties:

1 been designated to testify on behalf of LG
2 Electronics U.S.A. on those matters set forth
3 on Schedule A?

4 A Yes, I am.

5 Q And have you reviewed the various
6 matters set forth on Schedule A, the 21
7 paragraphs?

8 A Yes, I have.

9 Q And can you confirm for me that you
10 indeed are the person at LG Electronics
11 U.S.A. with information on the 21 or so
12 paragraphs?

13 A Yes, I am.

14 MR. SOMMERS: We will simply
15 qualify that in a letter to counsel that we
16 have objected to the scope of some of those
17 topics.

18 MR. KIRBY: Understood.

19 BY MR. KIRBY:

20 Q Mr. Taylor, what is the
21 relationship between LG Electronics U.S.A.
22 and LG Electronics, Inc.?

1 A LG Electronics, Inc. is a \$38
2 billion global corporation with operations --
3 76 subsidiaries in 39 countries. It is the
4 parent company of LG Electronics U.S.A.

5 Q Does that make LG Electronics
6 U.S.A. the wholly owned subsidiary of LG
7 Electronics, Inc.?

8 A You know, I'm not sure about the
9 legal structure. We are a subsidiary.

10 Q And can you tell me what the
11 relationship is between LG Electronics, Inc.,
12 and LG Corp or corporation?

13 A LG Corporation, formerly known as
14 LG Group, is the conglomerate under which LG
15 Electronics, Inc. Falls. It includes LG
16 Chemical and other parts that frankly I'm not
17 that familiar with.

18 Q I just want us, going back to
19 something I had mentioned earlier, to try to
20 be clear about which of the various
21 corporations we are talking about.

22 So is it fair to say that LG

1 Q Please.

2 A It's not very shorthand, but I
3 would call it the LG logo with the Life's
4 Good tag line.

5 Q I could have done better than that,
6 Mr. Taylor.

7 Now, I want you to focus on Exhibit
8 4, the LG logo with the Life's Good tag line,
9 and I would like you to tell me, sir, how it
10 came about that LG first started using it.

11 A LG Electronics U.S.A.?

12 Q Please.

13 A LG electronics U.S.A. began using
14 the LG logo with the Life's Good tag line I
15 believe in late 2003, based on direction from
16 LG Electronics, Inc. in Korea.

17 Q Do you know what company created
18 the LG logo with the Life's Good tag line?

19 A I'm not sure. That was handled by
20 LG corporate in Korea.

21 Q As far as you know, it wasn't
22 anybody at LG Electronics U.S.A. that came up

1 with it?

2 A That is correct.

3 Q It came out of one of the

4 affiliated Korean entities?

5 A I'm not really sure, but it came
6 from Korea.

7 Q You don't know if it was an
8 employee for one of the affiliated LG
9 companies even that first came up with the LG
10 logo with the Life's Good tag on it?

11 MR. SOMMERS: I'm just going to
12 object to its form.

13 MR. KIRBY: I actually got it
14 right, Mark.

15 THE WITNESS: I understand it was
16 first used in Australia.

17 BY MR. KIRBY:

18 Q Do you know whether the LG logo
19 with the Life's Good tag line was created by
20 an advertising firm that worked for one of
21 the LG companies?

22 A I believe -- I am not really sure.

1 undertaken at LG Electronics?

2 A I do not. This is the first time
3 I've ever seen this document.

4 Q And it's the first time, I take it,
5 that you ever heard that there was a diligent
6 investigation undertaken?

7 A Yes.

8 Q Do you know whether Life's Good
9 Electronics conducted a trademark search
10 before it began using the -- I misspoke.
11 Thank you.

12 Do you know whether LG Electronics
13 conducted a trademark search before it began
14 using the LG logo with the Life's Good tag
15 line?

16 A I assume they did. Those matters
17 are handled by LG corporate in Korea.

18 Q And do you assume that they did
19 because it is the corporate policy to conduct
20 such trademark investigations before you
21 begin the use of a new logo or tag line?

22 A Yes, I do.

1 MR. SOMMERS: I would just ask, for
2 your use of the word "you," that we clarify
3 which entities we are talking about now.

4 MR. KIRBY: LG Electronics U.S.A.

5 MR. SOMMERS: Then I will object to
6 the form.

7 MR. KIRBY: I may have messed it
8 up, so let me try and clean it up.

9 BY MR. KIRBY:

10 Q Do you know whether LG Electronics,
11 Inc. has a policy to conduct trademark
12 searches before it begins using a new logo?

13 A Yes.

14 Q And what is that policy?

15 A Again, I'm not a trademark
16 attorney, but the corporate, legal and
17 intellectual property group in Korea handles
18 these matters.

19 Q And it is your understanding that
20 before LG Electronics, Inc. would direct LG
21 Electronics U.S.A. To begin using a new
22 logo, that LG Electronics, Inc. Would take

1 suitable trademark searches?

2 A Correct.

3 Q And is it similarly the case that
4 it is your understanding that before LG
5 Electronics, Inc. would direct LG Electronics
6 U.S.A., to start using a new corporate tag
7 line, that LG Electronics, Inc. would conduct
8 reasonable trademark searches?

9 A That's my understanding, yes.

10 Q Does LG Electronics U.S.A.,
11 independent of LG Electronics, Inc., conduct
12 trademark searches before it begins
13 implementing the use of a new logo?

14 A No, we do not.

15 Q You defer to the corporate parents?

16 A Correct.

17 Q And is that likewise the case with
18 respect to corporate tag lines, that you
19 defer to the corporate parent, LG
20 Electronics, Inc., rather than conduct your
21 own trademark searches?

22 A Certainly if we identify anything

1 that might be in question, we would call it
2 to their attention, but it is really the
3 responsibility of corporate.

4 Q And you didn't participate, I
5 gather, in any of these trademark searches?

6 A I did not.

7 Q And do you have any knowledge
8 whether in fact they occurred?

9 A I assume they did.

10 Q You just assumed, based on your
11 experience at the company, that they adhered
12 with the policy in this case?

13 A Right.

14 Q Did LG Electronics U.S.A. know of
15 the existence of the plaintiff, Life is good,
16 Inc., before LG Electronics U.S.A. started
17 using the LG logo with the Life's Good tag
18 line?

19 A I don't think so.

20 Q And why do you say that?

21 A From my personal knowledge, I
22 hadn't run across Life is good. I don't

1 BY MR. KIRBY:

2 Q Here is what I'm trying to get at,
3 and tell me if I've got this right or wrong.

4 If LG Electronics U.S.A. doesn't
5 know who it is that first had the idea of
6 using the corporate tag line Life's Good, and
7 doesn't know what was in that person's mind
8 or those person's mind when they came up with
9 the idea of using the corporate tag line
10 Life's Good, then doesn't it necessarily
11 follow, sir, that LG Electronics U.S.A. has
12 no idea whether the corporate tag line Life's
13 Good was created in good faith for reasons
14 completely unrelated to the plaintiff?

15 A It's not that black and white. Not
16 necessarily. You know, when LG corporate
17 explained their decision to LG in the U.S. in
18 the fall of 2003, when the brand
19 communication guidelines were developed, the
20 rationale was explained, and the meaning of
21 Life's Good and what we are trying to
22 accomplish with this marketing theme.

1 Q But LG's management did not explain
2 to LG Electronics U.S.A. how the tag line was
3 developed, right?

4 A I wasn't at those meetings, so I
5 don't know.

6 Q Let me go back to the meeting that
7 you testified about a moment ago. That's the
8 October 2003 meeting of senior executives?

9 A Yes, sir.

10 Q Where did that occur?

11 A In Seoul.

12 Q And were you present?

13 A I was not.

14 Q And did somebody who was in
15 attendance on behalf of LG Electronics U.S.A.
16 come back and report to his or her colleagues
17 here stateside about the substance of that
18 meeting?

19 MR. SOMMERS: Objection to
20 foundation.

21 MR. KIRBY: Let me lay more
22 foundation.

1 BY MR. KIRBY:

2 Q To your knowledge, was somebody
3 from LG Electronics U.S.A. in attendance at
4 this meeting in Seoul in October 2003?

5 A There was nobody from LG
6 Electronics U.S.A. At the meeting.

7 Q Who was at the meeting?

8 A I believe it was senior executives,
9 including the CEO and the division
10 presidents, and other senior executives such
11 as the CFO.

12 Q Of what company?

13 A Of LG Electronics, Inc.

14 Q And did any one or more
15 participants in this meeting in Seoul then
16 report to or issue a directive to LG
17 Electronics U.S.A.?

18 A I'm unclear about the process, but
19 the corporate decision was made and was
20 communicated to the appropriate executives at
21 LG Electronics U.S.A.

22 Q Including you?

1 A It got down to me. I'm two layers
2 down, but yes.

3 Q And what message ultimately made
4 its way to you?

5 A Well, in December of 2003, the
6 brand communications guidelines were
7 published. It was very timely. We were
8 preparing for the consumer electronics show
9 in January of 2004 and how we would
10 incorporate the new global corporate tag line
11 into our themes for that show.

12 Q And did LG Electronics U.S.A. roll
13 out the use of the LG logo with the Life's
14 Good tag line sometime at the end of 2003 or
15 early 2004?

16 A There was some preliminary use in
17 late 2003, but 2004 was really the first
18 widespread use in the United States of the LG
19 logo paired with the Life's Good tag line.

20 Q Was the LG logo with the Life's
21 / Good tag line rolled out internationally at
22 or around that time, end of 2003, early 2004?

1 A Yes.

2 Q Was there any one company in the LG
3 corporate structure that was ahead of the
4 others in the roll-out of the LG logo with
5 the Life's Good tag line?

6 A You are talking about companies
7 around the world or --

8 Q Yes.

9 A I'm not sure. My focus is in the
10 United States.

11 Q I think you told me earlier that
12 you don't know for sure whether or not
13 anybody within the LG corporate empire
14 conducted a trademark search before LG rolled
15 out the LG logo with the Life's Good tag
16 line; is that right?

17 A Pretty sure they did.

18 Q You don't know for sure?

19 A Yeah.

20 Q You assume they did?

21 A Right.

22 Q And one of the reasons you assume